

AMENDED IN SENATE MARCH 8, 2006

AMENDED IN SENATE AUGUST 15, 2005

AMENDED IN SENATE MARCH 29, 2005

Senate Constitutional Amendment

No. 12

Introduced by ~~Senators Torlakson and Kehoe~~ Senator Torlakson

(Principal coauthors: ~~Assembly Members Mullin and Salinas~~)

(Coauthors: Senators Margett, McClintock, and Scott)

(Coauthors: ~~Assembly Members Coto and Goldberg~~)

February 23, 2005

Senate Constitutional Amendment No. 12—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by ~~amending Section 19 of Article I thereof, relating to eminent domain; adding Sections 10 and 11 to Article IX thereof, relating to education funding.~~

LEGISLATIVE COUNSEL'S DIGEST

SCA 12, as amended, Torlakson. ~~Eminent domain.~~ *Education funding: before and after school programs.*

The California Constitution requires that, commencing with the 1990–91 fiscal year, a minimum amount of moneys from all state revenues be applied by the state for the support of school districts and community college districts according to a specified formula. Existing provisions of the California Constitution authorize the Legislature to suspend the obligation to appropriate that minimum education funding amount for one fiscal year and identify the amount of the shortfall as a maintenance factor. The California Constitution requires an amount to be allocated during specified fiscal years as repayment of the maintenance factor.

An existing initiative statute provides, commencing with the fiscal year beginning July 1, 2004, and for each fiscal year thereafter, for the continuous appropriation of an amount not to exceed \$550,000,000 from the General Fund to the State Department of Education for the After School Education and Safety Program, as specified. The existing initiative statute prohibits the amendment of that provision by the Legislature.

This measure would authorize that continuous appropriation of funds for the After School Education and Safety Program to commence the first fiscal year after the fiscal year in which specified conditions have been met, including (1) a sufficient appropriation of funds from the General Fund for the fiscal year to provide both the minimum amount of funding to school districts and community college districts required by the California Constitution and the total amount of the outstanding balance of a maintenance factor; (2) prior to July 1 of the fiscal year, the appropriation of General Fund moneys to school districts and community college districts in each fiscal year, up to and including the 2003–04 fiscal year, sufficient to provide the minimum amount of funding to school districts and community college districts required by the California Constitution, and (3) the certification by the Department of Finance, in consultation with the Legislative Analyst’s Office, that (A) the fiscal year will end with a projected balance in the Budget Stabilization Account of at least 3% of the estimated General Fund revenues for the fiscal year, and (B) annual baseline General Fund revenues are estimated to exceed annual baseline General Fund expenditures in the succeeding 2 fiscal years. The measure would require the Legislature to define by statute baseline General Fund revenues and expenditures, as specified.

This measure would authorize the Legislature to amend any provision of the existing initiative statute described above, as specified.

~~The California Constitution authorizes governmental entities to take or damage private property for public use only when just compensation, ascertained by a jury unless waived, has first been paid to the owner, or into court for the owner. It also authorizes the Legislature to provide for possession by the condemnor following commencement of the eminent domain proceedings, upon deposit in court and prompt release to the owner of the money determined by the court to be the probable amount of the just compensation.~~

~~This measure would declare, for this purposes, that public use does not include the taking of owner-occupied residential property for private use.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

1 ~~WHEREAS, This measure shall be known and may be cited as~~
2 ~~“The California Homeowners’ Protection Act”; and~~

3 ~~WHEREAS, It is the intent of the people of the State of~~
4 ~~California that public agencies shall not use their powers of~~
5 ~~eminent domain to take private, owner-occupied homes for the~~
6 ~~benefit of other private property owners; and~~

7 ~~WHEREAS, This amendment shall apply only to~~
8 ~~condemnation actions that are completed after this amendment~~
9 ~~goes into effect; now, therefore, be it~~

10 ~~Resolved by the Senate, the Assembly concurring, That the~~
11 ~~Legislature of the State of California at its 2005-06 Regular~~
12 ~~Session commencing on the sixth day of December 2004,~~
13 ~~two-thirds of the membership of each house concurring, hereby~~
14 ~~proposes to the people of the State of California, that the~~
15 ~~Constitution of the State be amended as follows:~~

16 ~~First—That Section 10 is added to Article IX thereof, to read:~~

17 ~~Sec. 10. (a) The continuous appropriation required pursuant~~
18 ~~to subdivision (b) of Section 8483.5 of the Education Code, or its~~
19 ~~successor, shall commence the first fiscal year after the fiscal~~
20 ~~year in which all of the following conditions have been met:~~

21 ~~(1) Funds appropriated from the General Fund for the fiscal~~
22 ~~year are sufficient to provide both the minimum amount of~~
23 ~~funding to school districts and community college districts~~
24 ~~required by subdivision (b) of Section 8 of Article XVI and the~~
25 ~~total amount of any outstanding balance of a maintenance factor.~~

26 ~~(2) Prior to July 1 of the fiscal year, the amount of General~~
27 ~~Fund moneys appropriated to school districts and community~~
28 ~~college districts for each fiscal year up to and including the~~
29 ~~2003–04 fiscal year was sufficient to provide the minimum~~
30 ~~amount of funding to school districts and community college~~
31 ~~districts required by subdivision (b) of Section 8 of Article XVI.~~

32 ~~(3) The Department of Finance, in consultation with the~~
33 ~~Legislative Analyst’s Office, certifies both of the following:~~

1 (A) The fiscal year will end with a projected balance in the
2 Budget Stabilization Account of at least 3 percent of the
3 estimated amount of General Fund revenues for the fiscal year.

4 (B) The annual baseline General Fund revenues are estimated
5 to exceed annual baseline General Fund expenditures in the
6 succeeding two fiscal years.

7 (b) The Legislature shall by statute define baseline General
8 Fund revenues and expenditures for purposes of this section,
9 which shall incorporate inflation adjustments, one-time costs
10 arising from court cases and other factors, workload
11 adjustments, caseloads, and other relevant fiscal matters.

12 Second—That Section 11 is added to Article IX thereof, to
13 read:

14 SEC. 11. Notwithstanding Section 10 of Article II, the
15 Legislature may amend any provision of Article 22.5
16 (commencing with Section 8482) of Chapter 2 of Part 6 of the
17 Education Code, or its successor, in order to create an after
18 school program that the Legislature determines to appropriately
19 meet the educational and safety needs of California pupils.

20 That Section 19 of Article I thereof is amended to read:

21 ~~SEC. 19. (a) Private property may be taken or damaged for~~
22 ~~public use only when just compensation, ascertained by a jury~~
23 ~~unless waived, has first been paid to, or into court for, the owner.~~
24 ~~The Legislature may provide for possession by the condemnor~~
25 ~~following commencement of eminent domain proceedings upon~~
26 ~~deposit in court and prompt release to the owner of money~~
27 ~~determined by the court to be the probable amount of just~~
28 ~~compensation.~~

29 ~~(b) Public use does not include the taking of owner-occupied~~
30 ~~residential property for private use.~~